

Public Chapter 444

HOUSE BILL NO. 595

By Representatives Head, Pinion

Substituted for: Senate Bill No. 1033

By Senator Gilbert

AN ACT to amend various provisions of Tennessee Code Annotated, relative to the Tennessee Petroleum Underground Storage Tank Act, and to authorize and provide for the issuance of debt obligations and other mechanisms to provide funding for the investigation, identification, cleanup, monitoring and maintenance of petroleum sites pursuant to such act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-215-110(h)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) Such environmental assurance fee shall be paid and remitted to the Department of Revenue on a monthly basis at the same time and in the same manner that the special tax on petroleum products is paid and remitted pursuant to title 67, chapter 3, part 9. Such tax collections are hereby appropriated, and are to be allocated and expended on an annual basis only in the following order of priority:

(A) First to the Tennessee local development authority, referred to in this section as the "authority", a sum sufficient to make debt service payments on the authority's bonds or notes, both currently outstanding and those reasonably anticipated to be issued during the fiscal year, issued pursuant to Section 2 of this act, the proceeds of which have been or will be distributed to the board pursuant to a funding agreement, plus any amounts necessary to maintain a fully funded debt reserve or other reserve intended to secure the principal and interest on the bonds or notes as may be required by resolution, or other agreement of the authority, and to pay reasonable administrative costs directly related thereto; and

(B) Second to the board all remaining collections for deposit in the fund.

Prior to the start of each fiscal year, and to the extent necessary during the fiscal year, the following certifications shall be made and delivered to the authority:

(i) the Commissioner of Finance and Administration, the actual expenditures of the fund;

(ii) the Commissioner of Revenue, the actual collections made pursuant to (h)(1) above;

(iii) the Commissioner of Environment and Conservation, the amount of anticipated expenditures and claims against the fund, excluding payments in (3)(a) above, and the amount of anticipated tank fees collected pursuant to Section 68-215-109; and

(iv) the authority, the amount reasonably anticipated to be necessary to make such payments as provided in (3)(A) above.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 31, is amended by adding the following as a new part:

Section _____. This part shall be known and may be cited as the "Tennessee Local Development Authority Leaking Underground Storage Funding Act of 1997".

Section _____. (a) The General Assembly finds and declares that the costs incurred in connection with reasonable and safe cleanup with respect to petroleum sites within the State, as provided in title 68, chapter 215, part 1, in this code, are extensive and threaten the State's ability to meet its obligations with respect to the environment.

(b) It is accordingly in furtherance of the interests and welfare of all Tennesseans that the Tennessee local development authority, referred to in this part as the "authority", be empowered to issue revenue bonds and notes and to make the proceeds available to the petroleum underground storage tank board for purposes of providing for the reimbursement of reasonable and safe cleanup of petroleum sites.

(c) It is intended that the authority be vested with all powers necessary to accomplish these purposes.

Section _____. (a) For the purpose of providing moneys for deposit with the petroleum underground storage tank board, the authority, in addition to the powers otherwise created by law, has the power and is hereby authorized to issue from time to time negotiable bonds and notes of the authority in an amount not to exceed fifteen million dollars (\$15,000,000) in accordance with the following terms.

(b) Bonds or notes issued pursuant to the provisions of this part shall not be issued and sold as part of an issue of bonds or notes of the authority issued pursuant to any other provisions of this chapter or any other law; provided, that the foregoing shall not prohibit the issuance of separate issues of bonds or notes pursuant to the provisions of this part.

(c) In addition to powers otherwise granted by law, the authority has the power and is authorized to enter into a funding agreement with the underground storage tank board.

(d) The authority shall determine the amount as will be at least sufficient, together with other funds available therefor, to pay the principal of, and interest on, bonds and notes issued by the authority and to fund a debt service reserve

fund. The authority may collect an administrative fee in addition to such schedule for repayment of debt. Such schedule for repayment of debt shall be provided to the Commissioners of Finance and Administration, Revenue and Environment and Conservation.

(e) Prior to the issuance of any debt, there shall be a determination by the authority as to the sufficiency of the tax collections to service such debt.

Section _____. (a) The bonds and notes shall be authorized by resolution of the authority, secured by the deposit of the assurance fee required under Section 68-215-110, under such terms and conditions as deemed appropriate by the authority, provided that such debt, including any renewals or extensions, shall not be outstanding longer than twenty (20) years or the useful life for the funded cleanup, whichever is shorter.

(b) Such bonds and notes of the authority shall not constitute a debt or a pledge of the faith and credit of the State, and the holders or owners of such bonds and notes shall have no right to have taxes levied by the General Assembly, or any other taxing authority within the State for the payment of the principal, premium, if any, and interest on such bonds and notes, but such bonds and notes shall be payable solely from the revenues and moneys pledged for their payment.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 215, Part 1, is amended by adding the following new section:

Section _____. (a) Any person who contracts to provide investigation, identification, containment, cleanup, monitoring or maintenance of a petroleum site pursuant to the provisions of this chapter shall be subject to the following requirements:

(1) All contracts for such services shall be in writing and shall be signed by the owner, operator or other party obligated to pay for such services.

(2) All such contracts shall clearly indicate which charges and costs are required by the department to remediate the petroleum site to acceptable State standards and which charges are associated with work performed for tasks other than the remediation of the petroleum site to acceptable State standards.

(3) All such contracts shall include an express agreement that is clearly denoted by bold style type or other clearly distinguishable print and that requires the obligated party to initial or execute by a second signature, which agreement shall denote the obligated party's authorization or agreement to pay for all costs for work other than remediation of the petroleum site to acceptable State standards.

(b) Any person who fails to comply with the provisions of this section shall not be entitled to receive any reimbursement from the fund until compliance with this section is demonstrated to the satisfaction of the department.

(c) The provisions of this section shall only apply to contracts or agreements entered into , renewed or extended after June 30, 1997.

SECTION 4. This act shall take effect July 1, 1997, the public welfare requiring
it.